

ASSEMBLY BILL

No. 904

Introduced by Assembly Member Feuer

February 22, 2007

An act to add Chapter 6.5 (commencing with Section 42390) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

LEGISLATIVE COUNSEL'S DIGEST

AB 904, as introduced, Feuer. Recycling: food containers.

The California Integrated Waste Management Act of 1989, which is administered by the California Integrated Waste Management Board, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state, to generally meet one of specified criteria.

This bill would enact the Plastic and Marine Debris Reduction, Recycling, and Composting Act and would define terms for the purposes of that act. The bill would prohibit a food provider, on and after an unspecified date, from distributing disposable food service packaging to a consumer, unless the food service packaging is either compostable packaging or recyclable packaging. The bill would also prohibit a food provider, after July 1, 2012, from distributing disposable food service packaging to a consumer, unless the food service packaging is also recovered for composting at a rate of 25% or more or is recovered for recycling at a rate of 25% or more.

This bill would provide for the imposition of an unspecified civil penalty upon a person violating these requirements.

The bill would require the board to publish annually a list setting forth any penalties that have been levied against a violator of this act.

This bill would require the board to deposit all penalties paid pursuant to the act into the Marine Debris Reduction Account, which the bill

would create in the Integrated Waste Management Fund in the State Treasury. The bill would authorize the board to expend the moneys deposited in the account, upon appropriation by the Legislature, to provide public education and assist local governmental agencies in efforts to reduce plastic waste and marine debris, and for the board's costs of implementing the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) Plastic and packaging waste represents a significant and fast
4 growing component of the state's waste stream. California disposes
5 of more than three million tons of plastic packaging waste annually.
6 Plastic is the fastest growing component of generated waste,
7 increasing from less than 5 percent in 1980 to more than 11 percent
8 in 2003.
- 9 (b) With the sole exception of plastic beverage containers
10 covered by the California Beverage Containers Recycling and
11 Litter Reduction Act, little of generated plastic is currently
12 recycled. Excluding beverage containers, less than 5 percent of
13 plastic packaging is currently recycled.
- 14 (c) Plastic, including, but not limited to, polystyrene, and
15 disposable food service packaging litter and the resulting marine
16 debris present more than an aesthetic problem, as this litter and
17 debris poses a danger to marine organisms through ingestion and
18 entanglement.
- 19 (d) This litter and marine debris also presents a serious and
20 growing threat to water quality, the beneficial uses of the waters
21 of the state, and recreational human use, and they threaten the
22 ability of California's waters and the Pacific Ocean to sustain
23 aquatic life.
- 24 (e) The United States Environmental Protection Agency
25 estimates that upwards of 80 percent of marine debris originates
26 from land-based human activities, including littering and waste
27 disposal practices.
- 28 (f) Each year thousands of Californians volunteer countless
29 hours to cleanup plastic and disposable food service packaging

1 litter from public roadways, beaches, parks, and other areas of the
2 state.

3 (g) California's aquatic and marine environments are
4 increasingly threatened by the amount of plastic and disposable
5 food service packaging that is carried by stormwater runoff.

6 (h) Under a consent decree, a Total Maximum Daily Load
7 (TMDL) for trash is required to be developed for all impaired
8 waters within the state within the next decade. For example, the
9 TMDL for the Los Angeles River and Ballona Creek Watershed
10 requires that the amount of trash be reduced to zero to protect
11 beneficial uses.

12 (i) The costs to state agencies and local governments to comply
13 with existing TMDL requirements, pending TMDL requirements,
14 or the TMDL requirements yet to be developed, will run into
15 billions of dollars.

16 (j) Data collected during California's annual Coastal Cleanup
17 and the 1999 Pilot Litter Study by the Department of Conservation
18 indicate that plastic and disposable food service packaging
19 represent some of the most commonly littered items.

20 (k) Disposable food service packaging is used "on the go" when
21 access to trash and recycling receptacles is most limited. Plastics
22 generally can become inadvertent litter even if initially properly
23 discarded, and are carried by wind from uncovered trash cans and
24 dumpsters, vehicles, and solid waste facilities, including landfills.

25 (l) The benefits of reducing, recycling, and composting plastics
26 and disposable food service packaging will have a direct positive
27 impact on the California economy.

28 (m) A 1993 study by the California Research Bureau concluded
29 that ocean-dependent industries add \$17,000,300,000 and 370,000
30 jobs to California's economy, almost \$10 billion of which is
31 nonresident coastal-based tourism.

32 (n) Compounding the problem of plastic packaging waste is
33 that this material is nonbiodegradable, and litter prone (even when
34 properly disposed, lightweight plastic packaging can be blown
35 from trash cans, garbage trucks, and landfills).

36 (o) Nonbiodegradable plastic litter poses a real and growing
37 threat to water quality and the marine environment.

38 SEC. 2. Chapter 6.5 (commencing with Section 42390) is added
39 to Part 3 of Division 30 of the Public Resources Code, to read:

1 CHAPTER 6.5. PLASTIC AND MARINE DEBRIS REDUCTION,
2 RECYCLING, AND COMPOSTING ACT

3
4 Article 1. General Provisions

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6 42390. This chapter shall be known and may be cited as the
7 Plastic and Marine Debris Reduction, Recycling, and Composting
8 Act.

9 42391. It is the intent of the Legislature, consistent with the
10 number one recommendation in the state funded report
11 “Eliminating Land-based Discharges of Marine Debris in
12 California,” to designate responsibility and authority for reduction
13 of marine debris and its sources to a state agency.

14
15 Article 2. Definitions

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17 42392. For the purposes of this chapter, the following terms
18 have the following meanings:

19 (a) (1) “Disposable food service packaging” means single-use
20 disposable products used in the restaurant and food service industry
21 for serving or transporting prepared, ready-to-consume food or
22 beverages, including, but not limited to, plates, cups, bowls, trays,
23 and hinged or lidded containers.

24 (2) “Disposable food service packaging” does not include any
25 of the following:

26 (A) Single-use disposable items, including straws, cup lids, or
27 utensils.

28 (B) Single-use disposable packaging for unprepared foods.

29 (b) “Compostable Packaging” means a material that meets all
30 of the following criteria:

31 (1) The packaging is accepted back for composting by the food
32 provider.

33 (2) The packaging is accepted for composting in a residential
34 curbside collection program available to at least 75 percent of the
35 households in the city or the unincorporated area of the county in
36 which the food provider distributes the packaging.

37 (3) The packaging is made of a material that meets the
38 compostability standard in ASTM (American Society for Testing
39 Materials) 6400.

(4) On and after July 1, 2012, the packaging meets or exceeds the recovery for composting goal specified in subdivision (b) of Section 42393.

(c) "Food provider" means any establishment that provides prepared food for public consumption on or off its premises, including, but not limited to, a store, shop, sales outlet, restaurant, grocery store, supermarket, delicatessen, or catering truck or vehicle.

(d) "Prepared food" means any ready-to-consume food or beverage prepared on the food provider's premises, using any cooking or food preparation technique. "Prepared food" does not include any raw uncooked meat, fish, or eggs unless the food is provided for consumption without further food preparation.

(e) "Recyclable Packaging" means a material that meets all of the following criteria:

(1) The packaging is accepted back for recycling by the food provider.

(2) The packaging is accepted for recycling in a residential curbside collection program available to at least 75 percent of the households in the city or the unincorporated area of the county in which the food provider distributes the packaging.

(3) On and after July 1, 2012, packaging meets or exceeds the recovery for recycling goal specified in subdivision (b) of Section 43293.

Article 3. Packaging Waste Reduction and Recycling Responsibilities

42393. (a) On and after January 1, _____, a food provider shall not distribute disposable food service packaging to a consumer, unless the food service packaging is either compostable packaging or recyclable packaging.

(b) On and after July 1, 2012, in addition to the requirement of subdivision (a), a food provider shall not distribute disposable food service packaging to a consumer, unless the food service packaging meets one of the following criteria:

(1) The packaging is recovered for composting at a rate of 25 percent or more.

(2) The packaging is recovered for recycling at a rate of 25 percent or more.

Article 4. Penalties

42395. (a) Any person violating this chapter is subject to a civil penalty of not more than ____ dollars (\$____).

(b) The total annual penalties assessed upon a violator of this chapter shall not exceed ____ dollars (\$____).

(c) On or before January 1, 2009, and on or before January 1 annually thereafter, the board shall annually publish a list setting forth any penalties that have been levied against a violator of this chapter in the preceding calendar year, for failure to comply with the requirements of this chapter.

(d) The board shall deposit all penalties or fines paid pursuant to this section into the Marine Debris Reduction Account, which is hereby created in the Integrated Waste Management Fund in the State Treasury. The moneys deposited in the Marine Debris Reduction Account may be expended by the board, upon appropriation by the Legislature, to provide public education and assist local governmental agencies in efforts to reduce plastic waste and marine debris, and for the board's costs of implementing this chapter.